

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20036

In the Matter of

CCN, Inc.,  
Church Discount Group, Inc.,  
Discount Calling Card, Inc.,  
Donation Long Distance, Inc.,  
Long Distance Services, Inc.,  
Monthly Discounts, Inc.,  
Monthly Phone Services, Inc., and  
Phone Calls, Inc.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

CC Docket No. 97-144

ORDER

Upon consideration of Petition To Intervene And Motion To Enlarge Issues Of Atlas Communications, Ltd. And Billing Concepts, Inc., IT IS ORDERED, pursuant to Section 4(j) of the Communications Act of 1934, as amended, that petitioners'-movants' said petition and motion hereby are GRANTED.

IT IS FURTHER ORDERED that Atlas Communications, Ltd. and Billing Concepts, Inc. hereby are GRANTED LEAVE TO INTERVENE in those certain Commission proceedings relating to the Commission's Order To Show Cause And Notice Of Opportunity For Hearing, issued at In the Matter of CCN, Inc., et al. (CC Docket No. 97-144).

IT IS FURTHER ORDERED that Atlas Communications, Ltd. and Billing Concepts, Inc. shall, within \_\_\_\_\_ days following the date hereof, FILE WITH THE COMMISSION statements specifying the relief sought, and facts and authority supporting same.

IT IS FURTHER ORDERED that the issues to be determined

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by the Commission hereby are ENLARGED to include Whether And/Or  
How Atlas Communications, Ltd. And/Or Billing Concepts, Inc.  
Shall Be Permitted To Continue Supplying Telecommunications And  
Related Services To Customers Identified To Atlas Communications,  
Ltd. And Billing Concepts, Inc. By Phone Calls, Inc., Under Phone  
Calls, Inc.'s Federal Communications Commission's Certification  
And/Or Tariffs.

FEDERAL COMMUNICATIONS COMMISSION

By: \_\_\_\_\_

Dated: \_\_\_\_\_

**BOCHETTO & LENTZ, P.C.**

By: George Bochetto, Esquire  
Stephen E. Skovron, Esquire  
1524 Locust Street  
Philadelphia, PA 19102  
(215) 735-3900

Attorneys for  
Atlas Communications, Ltd  
and Billing Concepts, Inc

**BEFORE THE  
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Monthly Discounts, Inc., :  
Monthly Phone Services, Inc., and :  
Phone Calls, Inc. : CC Docket No. 97-144  
:  
Petition to Intervene and :  
Motion to Enlarge Issues of :  
Atlas Communications, Ltd. and :  
Billing Concepts, Inc. :

**PETITION TO INTERVENE AND  
MOTION TO ENLARGE ISSUES OF  
ATLAS COMMUNICATIONS, LTD. AND  
BILLING CONCEPTS, INC.**

NOW COME Petitioners-Movants Atlas Communications, Ltd.  
and Billing Concepts, Inc., by and through their undersigned  
counsel, and hereby petition the Federal Communications  
Commission to grant petitioners-movants leave to intervene in the  
above-captioned Commission proceedings, and move the Federal  
Communications Commission to enlarge issues therein, and state as  
follows in support thereof:

**INTRODUCTION**

1. **As a result of Respondents' improper and illegal  
actions, over 50,000 telephone customers on the Atlas**

*Communications, Ltd. network are at risk of having their long distance telecommunications services interrupted. This Petition/ Motion is being filed to prevent that interruption from occurring to these more than 50,000 victims of the Respondents' scheme, and to further mitigate the reputational harm that would flow to innocent members of the telecommunications industry as a result of any Commission Order requiring Petitioners-Movants to terminate service to these more than 50,000 telephone customers.*

#### PARTIES

2. Petitioner-movant Atlas Communications, Ltd. ["Atlas"] is a corporation organized and existing pursuant to the laws of the Commonwealth of Pennsylvania, whose principal place of business is located at 482 Norristown Road, Suite 200, Blue Bell, Pennsylvania.

3. Petitioner-movant Billing Concepts, Inc. is a corporation organized and existing pursuant to the laws of the State of Delaware, doing business as U.S. Billing, whose principal place of business is located at 7411 John Smith Drive, San Antonio, Texas ["USB"].

4. Respondent Daniel Fletcher ["Fletcher"] is an adult individual and was--as represented and warranted to Atlas by Fletcher--at all times relevant hereto, the sole owner and President of Phone Calls, Inc. ["PCI"]. As of the date hereof, Atlas does not know Fletcher's whereabouts, despite reasonable investigation.

5. Respondent PCI was--as represented and warranted to Atlas by Fletcher--at all times relevant hereto, a corporation organized and existing pursuant to the laws of the State of Virginia, whose principal place was 3220 N Street, N.W., Suite 100, Washington, D.C.

#### **GENERAL ALLEGATIONS**

6. PCI, among other entities, and Fletcher, are the subject of the Federal Communication Commission's ["Commission"] Order To Show Cause And Notice Of Opportunity For Hearing, issued at *In the Matter of CCN, Inc., et al.* (CC Docket No. 97-144).

7. Atlas duly is certificated as an interexchange carrier by the Commission at ITC-95-584.

8. Atlas is a switchless long-distance telephone company, supplying long-distance telephone services to customers via U.S. Sprint's network, access to which Atlas has purchased.

#### **Atlas/PCI Contract**

9. On or about June 18, 1996, Atlas and PCI entered a contract ["Atlas/PCI Contract"].

10. Pursuant to the Atlas/PCI Contract, PCI would send to Atlas PCI long-distance telephone customers from whom PCI already had obtained authorization to switch to PCI, and Atlas would cause those PCI customers to be placed on its underlying network (namely, Sprint's network).

11. PCI represented and warranted to Atlas that PCI was an interexchange carrier, duly certificated thereas by the Commission and the public utility/service commissions ["PUCs"]

of all States within which PCI conducted business.

12. PCI represented and warranted to Atlas that it duly had registered any and all applicable interstate tariffs with the Commission.

13. Pursuant to the Atlas/PCI Contract and customary industry practice, PCI customers were sent through a third-party billing clearinghouse, which would bill PCI customers for their interstate telephone calls pursuant to PCI's Commission certification and duly registered tariffs.

14. Neither Atlas nor USB had any involvement in PCI's marketing of long-distance telephone services to PCI customers placed on Atlas' network.

15. To the contrary, PCI only identified customers to Atlas to whom PCI **already had completed** its marketing practices.

16. Stated otherwise, by the time Atlas and PCI entered the Atlas/PCI Contract, PCI **already had completed** marketing long-distance telephone services to any and all PCI customers ever sent to Atlas.

#### **Atlas/USB Contract**

17. In or about September 1996, Atlas and USBI entered a contract ["Atlas/USB Contract"].

18. Pursuant to the Atlas/USB Contract, USB would perform billing clearinghouse services for PCI as to PCI customers PCI had sent to Atlas pursuant to the Atlas/PCI Contract.

19. Pursuant to the Atlas/USB Contract and customary

industry practice, USB would bill PCI customers their interstate telephone calls and pursuant to PCI's Commission certification and duly registered tariffs.

#### **Atlas/PCI Lawsuit**

20. In or about early July 1996, PCI sent approximately 544,000 of its long-distance telephone customers to Atlas for placement on the Atlas network.

21. Atlas began causing those customers to be placed on its network and within approximately two-to-three weeks, Atlas was able to cause approximately 200,000 of those PCI customers to be placed on the Atlas network.

22. Within approximately another two weeks, Atlas learned that, of those PCI customers placed on Atlas' network, an inordinately high percentage--vis-a-vis industry standards--had lodged complaints with regulators and government law enforcement agencies, including the Commission, various PUCs, and various state attorneys general, as well as with Sprint and numerous local telephone companies.

23. At bottom, all those PCI customers complained about the same thing: That they had not authorized PCI to switch their long-distance service. Simply stated, they apparently had been slammed by PCI.

24. Atlas attempted to verify the accuracy of those PCI customers' complaints, but when it approached PCI about same, PCI denied culpability and, very soon thereafter, the Atlas/PCI business relationship deteriorated to an adversarial

relationship.

25. Wwhen Atlas learned of the inordinately high percentage of slamming complaints lodged by those PCI customers--approximately two weeks following Atlas' placement on its network of approximately 200,000 PCI customers--Atlas immediately ceased accepting any new orders from PCI.

26. As a result, on August 19, 1996, PCI filed a civil Complaint against Atlas at PCI v. Atlas (E.D. Pa. No. 96-5734), in reply to which, on August 26, 1996, Atlas filed its Answer and Counterclaims.

27. Atlas sought and obtained an Order from the Federal Court permitting Atlas to engage USB to bill PCI customers on Atlas' network, in furtherance of which Court Order Atlas reduced the rates it billed the PCI customers to rates consistent with those employed by the major carriers.

28. Some weeks into the litigation, Fletcher failed to appear at various hearings despite being so ordered by the Court. PCI's counsel then moved to withdraw from the case, and that motion was granted.

29. On December 31, 1996, the Clerk of Court, United States District Court for the Eastern District of Pennsylvania, entered default on Atlas' Counterclaims in favor of Atlas and against PCI, upon Atlas' request therefor pursuant to Fed. R. Civ. P. 55(a).

30. On June 6, 1997, the Court conducted a damages hearing pursuant to Fed. R. Civ. P. 55(b), during which Atlas



presented evidence supporting its damages claim against PCI. The Court's ruling on the said damages hearing is pending.

**Atlas and USB Continue to Service  
Some PCI-Identified Customers and  
Attempt to Mitigate Effects of Fletcher/PCI Actions**

31. Atlas and USB continue to service approximately 53,409 PCI customers remaining on the Atlas network.

32. Atlas and USB continue to supply those services-- though each is entitled to forebear therefrom--because each views the provision of interstate telecommunications and related services as a quasi-public service in furtherance of what each believes to be consumers' fundamental rights to unfettered, efficient telecommunications.

33. Moreover, Atlas voluntarily has undertaken extraordinary steps to mitigate the effects of Fletcher's and PCI's apparent actions in acquiring some of those customers' Letters of Authorization by means not in compliance with Commission rules and regulations or acceptable industry practice.

34. In particular, upon learning about Fletcher's and PCI's said apparent actions, Atlas voluntarily and without solicitation reduced the rates at which the PCI customers on its network were billed to rates employed by major carriers. (Atlas lawfully could have billed those PCI customers at rates represented and warranted by PCI to have been duly filed and registered with the Commission, but in Atlas' and USB's opinion those rates were too high and included a high surcharge that was unwarranted.)

35. Atlas' reduction of the billing rates it assessed PCI customers on Atlas' network was in the public interest and consistent with Commission policy that a slammed customer remains responsible for long-distance telephone charges that would have been assessed by his previous carrier, but for the unauthorized switch in carriers.

**ATLAS AND USB INTERESTS HEREIN**

36. Pursuant to the Commission's Order To Show Cause And Notice Of Opportunity For Hearing, issued at *In the Matter of CCN, Inc., et al.* (CC Docket No. 97-144), the Commission intends to revoke the domestic operating authority of PCI.

37. If the Commission revokes the operating authority of PCI, Atlas and USB will be forced to terminate servicing the PCI customers remaining on Atlas' network.

38. If Atlas and USB are forced to terminate those services, each will suffer irreparable harm including but not limited to:

a. reputational harm among those PCI customers on the Atlas network to the extent those PCI customers identify Atlas and/or USB as voluntarily refusing to supply uninterrupted, efficient telecommunications and related services;

b. reputational harm among those customers to the extent they identify Atlas and/or USB as complicit with Fletcher and/or PCI;

c. reputational harm among state telecommunications regulators for the same reasons;

d. loss of customers;

e. loss of goodwill;

and each will suffer financial harm including but not limited to the translation of the aforesaid into lost profits.

**RELIEF SOUGHT**

WHEREFORE, Petitioners-Movants Atlas Communications, Ltd. and Billing Concepts, Inc. hereby petition the Federal Communications Commission to grant petitioners-movants leave to intervene in the above-captioned Commission proceedings pursuant to Section 4(j) of the Communications Act of 1934, as amended, and move the Federal Communications Commission to enlarge issues in the above-captioned Commission proceedings, pursuant to Section 4(j) of the Communications Act of 1934, as amended, to include Whether And/Or How Atlas Communications, Ltd. And/Or Billing Concepts, Inc. Shall Be Permitted To Continue Supplying Telecommunications And Related Services To Customers Identified To Atlas Communications, Ltd. And Billing Concepts, Inc. By Phone Calls, Inc., Under Phone Calls, Inc.'s Federal Communications Commission's Certification And/Or Tariffs.

Respectfully submitted,

**BOCHETTO & LENTZ, P.C.**

By: 

George Bochetto, Esquire  
Stephen E. Skovron, Esquire  
1524 Locust Street  
Philadelphia, PA 19102  
(215) 735-3900

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**AFFIDAVIT OF JOHN FUDESCO**

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COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
COUNTY OF MONTGOMERY )

I, JOHN FUDESCO, an adult individual being duly sworn and according to law, hereby depose and say:

1. I am an attorney at law and am Vice President of Atlas Communications, Ltd., petitioner-movant in the above-captioned matter.

2. I am familiar with Daniel Fletcher and Phone Calls, Inc. and with the facts and circumstances underlying this petition-motion.

3. I have read the factual allegations expressed in the within *Petition To Intervene And Motion To Enlarge Issues Of Atlas Communications, Ltd. And Billing Concepts, Inc.*

4. Under penalty of perjury I hereby state that I know each of those factual allegations to be true and correct based on my first-hand knowledge thereof and/or information and

based on my first-hand knowledge thereof and/or information and belief therein.


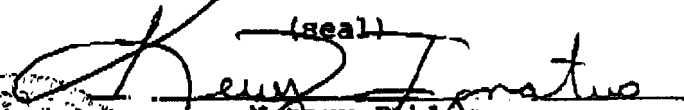
5. Affiant says nothing further.

AFFIANT:

  
JOHN FUDESCO  
Vice President  
Atlas Communications, Ltd.

SWORN AND SUBSCRIBED TO BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1997.

 (seal)  
  
Notary Public  
Notarial Seal  
Korby Ignatius, Notary Public  
East Goshen Twp., Chester County  
My Commission Expires Feb. 9, 1998  
Member Pennsylvania Association of Notaries

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Phone Calls, Inc. : CC Docket No. 97-144

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**AFFIDAVIT OF MARSHALL MILLARD**

---

STATE OF TEXAS            )  
                              )     ss:  
COUNTY OF BEXAR         )

I, MARSHALL MILLARD, an adult individual being duly sworn and according to law, hereby depose and say:

1. I am an attorney at law and am Corporate Counsel to Billing Concepts, Inc., d/b/a U.S. Billing ["USB"], petitioner-movant in the above-captioned matter.

2. I am familiar with Daniel Fletcher and Phone Calls, Inc. and with the facts and circumstances, as to USB, underlying this petition-motion.


3. I have read the factual allegations, as to USB, expressed in the within *Petition To Intervene And Motion To Enlarge Issues Of Atlas Communications, Ltd. And Billing Concepts, Inc.*

4. Under penalty of perjury I hereby state that I know each of those factual allegations to be true and correct

based on my first-hand knowledge thereof and/or information and belief therein.

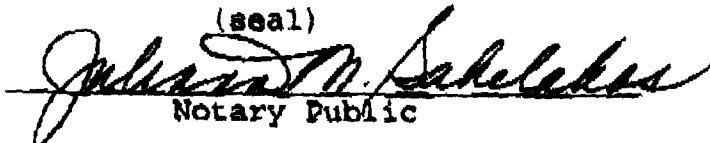
5. Affiant says nothing further.

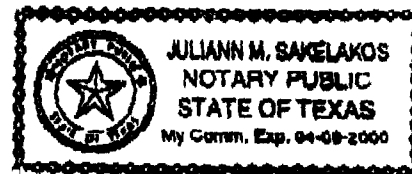
AFFIANT:

  
MARSHALL MILLARD  
Corporate Counsel  
Billing Concepts, Inc.

SWORN AND SUBSCRIBED TO BEFORE ME

THIS 18th DAY OF July, 1997.

(seal)  
  
Notary Public



**CERTIFICATE OF SERVICE**

I, STEPHEN E. SKOVRON, ESQUIRE, hereby certify that I caused a true and correct copy of the within *Petition To Intervene And Motion To Enlarge Issues Of Atlas Communications, Ltd. And Billing Concepts, Inc.* to be served upon those listed below, at the below-listed addresses, by first-class U.S. mail, postage prepaid, deposited on July 16, 1997:

***Addressee (typed as shown) For All Addresses Listed Below:***

DANIEL FLETCHER, and/or  
CCN, INC., and/or  
CHURCH DISCOUNT GROUP, INC., and/or  
DISCOUNT CALLING CARD, INC., and/or  
DONATION LONG DISTANCE, INC., and/or  
LONG DISTANCE SERVICES, INC., and/or  
MONTHLY DISCOUNTS, INC., and/or  
MONTHLY PHONE SERVICES, INC., and/or  
PHONE CALLS, INC., and  
SUCCESSORS and/or ASSIGNS OF ANY OF THE FOREGOING

***Posted To:***

201 West Broad Street  
Suite 181  
Falls Church, VA 22206

1357 Ashford Avenue  
San Juan, Puerto Rico 00930

1718 M Street, N.W.  
No. 143  
Washington, DC 20036



1728 Wisconsin Avenue, N.W.  
No. 222  
Washington, DC 20007

1728 Wisconsin Avenue, N.W.  
No. 300  
Washington, DC 20007

1730 North Lynn Street  
No. A-09  
Arlington, VA 22209

2117 L Street, N.W.  
No. 293  
Washington, DC 20037

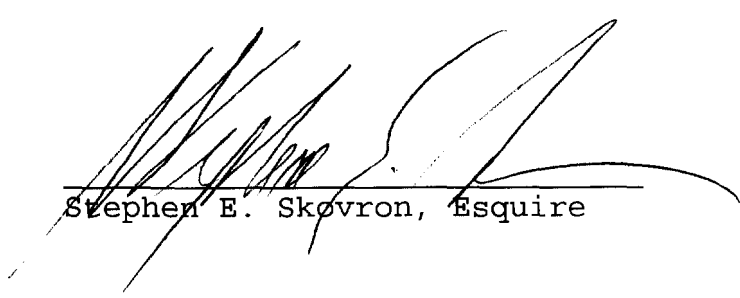
2200 Wilson Boulevard  
No. 102-H  
Arlington, VA 22201

2200 Wilson Boulevard  
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3220 N Street, N.W.  
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Stephen E. Skovron, Esquire